



MIWG Export Briefing

ANALEX Export Control Rep
Dan Foss



What is an export? Defense Article

- The ITAR Part 120.17 defines an export as any of the following activities;
 - Sending or taking a “defense article” out of the United States in any manner, except by mere travel outside the United States by a person with knowledge of technical data.
 - » **Defense articles** defined:
 - According to the ITAR, a Defense Article is any item that is on the United States Munitions List (USML), including associated technical data. USML Category IV and Category XV are of special importance to NASA.
 - Any technical data about a defense article required for the design, development, production, or manufacture of defense articles.
 - Defense articles are not exclusively military items; e.g., with the exception of the ISS, all spacecraft are considered defense articles.



What is an export?

Defense Article (continued)

- The ITAR Part 120.17 defines an export as any of the following activities (continued);
 - Transferring registration, control, or ownership of a “defense article” to a “foreign person.”
 - » A **foreign person** is a person who:
 - IS NOT a US citizen
 - IS NOT a lawful permanent resident of the U.S. (“green card” holder)
 - IS a US citizen or lawful permanent resident, but is employed by or otherwise represents a foreign person or interest
 - » Also includes foreign companies or other entities not incorporated to do business in the U.S. and also Foreign Governments
 - » Also includes foreign subsidiaries of US companies (incorporated in a foreign country)
 - Disclosing (including oral or visual disclosure) or transferring a “defense article” to an embassy, any agency or subdivision of a foreign government.



What is an export? Defense Service

- The ITAR Part 120.17 defines an export as any of the following activities (continued);
 - Performing a “defense service” on behalf of or for the benefit of a foreign person.
 - » According to the ITAR, “**Defense Service**” means:
 - Assisting or training foreign persons in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles
 - Furnishing technical data about a defense article to foreign persons
 - The transfer of technical data or performance of a defense service to/for a foreign person anywhere is an export.



What is “Technical Data”?

- “Technical Data” defined:
 - Any information required for the design, development, production, manufacture, assembly, operations, repair, testing, maintenance or modification of defense articles.
 - Includes: documents, software, blueprints, photos, plans, instructions, know-how (verbally, through demonstration or through email, mail) etc.
 - ALL classified information, regardless of subject or content.
 - All detailed design, development, manufacturing and production, technical data or any specifically designed or modified component, part or accessory, attachment or associated equipment for satellites, or launch vehicles, including interfaces between the two
 - Technical data for all launch support activities (form, fit, function, mass, electrical, mechanical, dynamic, environmental, etc.)



What is NOT “Technical Data”?

- Information ‘in the public domain’:
 - Information that is published and accessible or available to the Public without restrictions.
- For example:
 - Published Books & Magazines
 - Data that has been approved for “Public Release” (need to prove approval)
 - General scientific, mathematical or engineering principles (not advanced in nature, kind you can get in any open university)
 - Basic marketing information:
 - » Information on function, purpose and general description of defense articles



Common Ways of Transferring Technical Data

John F. Kennedy Space Center

LAUNCH SERVICES PROGRAM

- Communicating with Resident "Foreign Persons," including Launch Vehicle employees, at Launch Vehicle Facilities
- Transferring written materials (by mail, electronically, etc.), whether by ones self, to to another person with knowledge they will do the transfer
- Using Electronic Media
 - Faxes & Telephones
 - Internet, email & Computer Networks (servers)
 - Video-conferencing
- Meetings & telephone discussions with foreign customers and suppliers abroad or in the US.
- Discussions at MIWGs/GOWGs, telecons
- Sharing "how much I know" in side conversation
- Traveling Abroad with Laptop Computers or Documents
- Visits by US Persons to foreign countries.
- Visits to US based facilities by "foreign persons"



United States Munitions List (USML)

John F. Kennedy Space Center

LAUNCH SERVICES PROGRAM

- **Category IV**

- Launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines
 - » Apparatuses, devices, materials,...for their handling, control, and monitoring.
 - » Space launch system power plants.
 - » Ablative materials...for articles in this category.
 - » All specifically designed, modified, configured, systems, pieces, and parts for the above.
 - » Technical data for the above.

- **Category XV**

- Spacecraft, including communications satellites, remote sensing satellites, scientific satellites, research satellites, navigation satellites, experimental and multi-mission satellites
 - » Ground control stations for Tracking, Telemetry and Control
 - » GPS designed or modified for military use.
 - » All uniquely designed, modified, configured systems, pieces, and parts for the above.
 - » Technical data for the above.



Making an Export Legal

- NASA
 - International Agreements (NASA)
 - Exemptions permitted by the ITAR

- Launch Service Provider and contractors
 - Licenses (DSP-5, DSP-61, DSP-73, DSP-85, DSP-119)
 - Agreements
 - » Technical Assistance Agreements (TAA)
 - » Manufacturing Licensing Agreements (MLA)
 - Exemptions permitted by the ITAR



Responsibilities / Violations

- Responsibilities
 - Wait to export until the agreement or license is fully in effect.
 - If ANY information changes, contact your Export Compliance Manager, for an amendment or additional licensing.
 - Licensees / Programs are responsible for acts of their employees, agents, and all authorized persons to whom possession of licenses and/or licensed articles have been entrusted regarding use, operation, possession, transportation and handling
 - Anyone having knowledge of an illegal export is obliged by law to stop it, if possible and report it promptly.
- Violations
 - Unlawful to: Export, attempt to export any defense Articles/technical data or furnish any defense service without a license or written approval from the U.S. Department of State.



Penalties/Sanctions For Violations

- **Civil Sanctions For Violations**

- NASA
 - » Fines - up to \$500,000 per Violation & Unlimited Additional Penalties
- LSP and Contractors
 - » Interim Suspension of any exporting - Up to 60 Days
 - » Administrative Debarment from Business with U.S. Government - usually for 3 years.
 - » Loss of future business, due to the notoriety gained by being identified as having past export violations.
 - » Fines - up to \$500,000 per Violation & Unlimited Additional Penalties

- **Criminal Penalties For Violations**

- For Willful Violations
 - » Statutory Debarment - for 3 years
 - » Individual Fines - up to \$1,000,000 AND/OR 10 years in prison!!